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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

HURLEY, KEVIN

ART UNIT PAPER NUMBER

3611

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/769,113	Applicant(s) CHAIT, PAUL NICHOLAS	
	Examiner Kevin Hurley	Art Unit 3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-7,13,15 and 17 is/are rejected.
- 7) ☒ Claim(s) 3,8-10,14,16 and 18-21 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 August 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

See page 22 line 9.

Drawings

2. The drawings were received on 2 August 2004. These drawings are not acceptable as they do not contain the legend "Replacement Sheet" at the top.

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "coaster brake" (claim 12), "supplemental source of power" (claim 19), "third freewheel" (claim 19), "electric motor" (claim 20), and "gasoline motor" (claim 21) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

4. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the first end 40a of the chain segment 40 being attached to the bottom of the first pivoting member 18 chain as described in the specification. Figure 1 shows the pivoting member 18 outside the

frame 12 and not attached to the. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d).

5. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the

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invention.

In claim 2 three more wheels are recited in addition to those recited in claim 1, thus making a total of five claimed wheels. It should be clarified that the “at least two wheels” comprise the pair of front wheels and the rear wheel.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. The use of the phrase “adapted” has been noted in the claims. It has been held that the recitation that an element is “adapted” is not a positive limitation but only requires the ability to perform. It does not constitute a limitation in any patentable sense. In re Hutchison, 69 USPQ 138 (CCPA 1946).

10. Claims 1, 4-7, 13, 15, 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Young.

Young discloses a vehicle comprising:

a frame 12;

at least two wheels 13,19 attached to said frame;

means 35,23 for converting an alternating back and forth motion by two arms of said user into a rotary motion that is adapted to supply a torque to at least one said at least two wheels and wherein when one arm is being pulled rearward the remaining arm is moving forward and wherein when said remaining arm is being pulled rearward said one arm is moving forward and wherein said torque is adapted to urge said hand-powered vehicle in a forward direction;

wherein said means for converting an alternating back and forth motion by two arms of said user into a rotary motion is adapted supply said torque when a first force is alternately applied by said one arm to a first member sufficient to urge said first member from said forward position into said rearward position and wherein when said first member is disposed at said rearward position said second force is applied by said remaining arm to said second member sufficient to urge said second member from said forward position into said rearward position; wherein when said first force is being applied said second force is diminished and when said second force is being applied said first force is diminished;

wherein said means for converting an alternating back and forth motion by said two arms of said user into a rotary motion includes a first chain segment 26 having a first end attached to a bottom of said first member 23 and wherein said first chain segment extends around a freewheel that is attached to an axle and wherein said freewheel 28 adapted to urge said axle to rotate in accordance with said freewheel when said freewheel is rotated in a first direction and wherein said freewheel is adapted to coast with respect to said axle when said freewheel is rotated in an opposite direction and a second chain segment having a first end attached to a bottom of said second member and wherein said second chain segment extends around a second freewheel that is attached to said axle and wherein said second freewheel is adapted to urge said axle to rotate in

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accordance with said second freewheel when said second freewheel is rotated in said first direction and wherein said second freewheel is adapted to coast with respect to said axle when said second freewheel is rotated in an opposite direction and including a drive gear attached to said axle, said drive gear adapted to urge a driven gear that is attached to a driven wheel to rotate in said first direction when either said freewheel or said second freewheel is rotated in said first direction;

and wherein said means for converting an alternating back and forth motion by two arms of said user into a rotary motion is adapted to produce said rotary motion if a first of said two arms is used to urge either said first or said second member alternately back and forth when said remaining one of said two arms not being used to urge either said first or said second member and wherein said first and said second members require a user to stand on said frame;

wherein said means for converting an alternating back and forth motion by two arms of said user into a rotary motion is adapted to supply said torque when a first force is applied by said one arm to a first member sufficient to urge said first member from a forward position into a rearward position;

said means for converting an alternating back and forth motion by two arms of said user into a rotary motion is adapted to supply said torque when a second force is applied by said remaining arm to a second member sufficient to urge said second member from a forward position into a rearward position;

freewheel and said second freewheel include clutch means;

including a first spring 40 that is attached to an opposite end of said first chain segment at one end of said spring and wherein an opposite end of said spring is attached to said frame

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sufficient to apply a tension to said first chain segment;

including a second spring 29 that attached to an opposite end of said second chain segment at one end of said second spring and wherein an opposite end of said second spring is attached to said frame sufficient segment. to apply a tension to said second chain;

including means for varying the magnitude of torque that is applied to said driven wheel (see col. 7 lines 33-36).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Young. Young discloses the claimed invention except for a brake mechanism attached to the scooter.

The examiner takes Official Notice that braking mechanisms are well known in the velocipede art and would have been obvious to one of ordinary skill in the art to provide such a mechanism on the scooter.

Allowable Subject Matter

13. Claims 3, 8-10, 14, 16, 18-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14. Claim 2 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion


15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references disclose velocipedes with reciprocating power systems.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Hurley whose telephone number is 703-308-0233. The examiner can normally be reached on Monday-Friday 9:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 703-308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Kevin Hurley
Primary Examiner
Art Unit 3611

November 11, 2004